

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 5, 2005

IN RE:

**APPLICATION OF BRISTOL TENNESSEE
ESSENTIAL SERVICES FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY TO PROVIDE COMPETING
TELECOMMUNICATIONS SERVICES WITHIN
THE STATE OF TENNESSEE**

**DOCKET NO.
05-00251**

**ORDER GRANTING PETITION FOR INTERVENTION
AND ESTABLISHING PROCEDURAL SCHEDULE**

This matter came before the Hearing Officer upon filing of the *Petition of Southeastern Competitive Carriers Association for Leave to Intervene* filed on November 8, 2005 by Southeastern Competitive Carriers Association ("SECCA") and for the establishment of a procedural schedule to completion of the docket.

BACKGROUND

On September 12, 2005, Bristol Tennessee Essential Services ("BTES") filed the *Application for Certificate of Convenience and Necessity to Provide Competing Telecommunications Services* ("Application"). According to the *Application*, BTES is a municipal electric system created in 1945 by the City of Bristol as a five (5) member board of public utilities pursuant to the Municipal Electric Plant Law of 1935.¹ BTES has a fiber optic system, which it is extending with a fiber-to-home network architecture in its service area in and

¹ *Application*, p 2 (September 12, 2005)

around Bristol, Tennessee.² BTES states that it will provide telephone and regulated telecommunications services through a separate business unit within BTES, the Telephone Business Unit.³ BTES is requesting that the TRA grant it authority to provide competing local telecommunications services, including exchange access telecommunications services, within the State of Tennessee.⁴

During a regularly scheduled Authority Conference held on October 17, 2005, Director Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle, the voting panel assigned to this docket, unanimously voted to appoint the General Counsel or his designee to act as Hearing Officer in this proceeding for the purpose of ruling on the pending interventions once responses are filed, handling preliminary matters and setting a procedural schedule to prepare the case for hearing.⁵ On November 2, 2005, the Hearing Officer granted petitions to intervene filed by BellSouth Telecommunications, Inc. ("BellSouth") and United Telephone-Southeast, Inc. ("UTSE").⁶ On November 4, 2005, a status conference was noticed for November 18, 2005. On November 8, 2005, SECCA filed the *Petition of Southeastern Competitive Carriers Association for Leave to Intervene*

INTERVENTION

Tenn. Code Ann. § 4-5-310(a) (2005) sets forth the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if;

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

² *Id*

³ *Id* at 4

⁴ *Id.* at 1

⁵ See Transcript of Authority Conference, pp 27-28 (October 17, 2005)

⁶ *Order Granting Petitions for Intervention* (November 2, 2005)

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

In its petition for intervention, SECCA states that it is an association comprised of competitive providers of local exchange providers qualified as public utilities to provide telecommunications services within the State of Tennessee. SECCA asserts its legal rights, duties, privileges, or immunities may be affected or its interests may be determined in the proceeding and that its interests will not be adequately represented unless it is allowed to intervene. According to SECCA, BTES seeks a grant of statewide authority so that it may provide services outside of its existing services footprint. SECCA further states that it has a direct interest in how municipal applicants such as BTES will comply with the competitive safeguards set forth under Tenn. Code Ann. § 7-52-401 (2004) *et seq.* SECCA avers its intervention will not impair the interests of justice or the orderly prompt conduct of the Authority's proceedings.

NOVEMBER 18, 2005 STATUS CONFERENCE

A status conference was held on November 18, 2005, in which counsel for BTES, BellSouth, UTSE and SECCA participated. At the status conference, no objection was stated to the *Petition of Southeastern Competitive Carriers Association for Leave to Intervene*. Therefore, because the legal rights and interests of SECCA may be determined in this proceeding, SECCA's petition was timely and its intervention will not impair the interests of justice and the orderly and prompt conduct of these proceedings, and after applying the standards set forth in Tenn. Code

Ann. § 4-5-310(a) (2005), the Hearing Officer granted the *Petition of Southeastern Competitive Carriers Association for Leave to Intervene*.

Also at the status conference, the parties proposed the following procedural schedule:

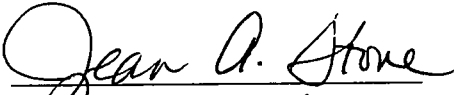
November 30, 2005	First round of discovery requests (one copy to be filed with the Authority)
December 14, 2005	Responses to first round of discovery requests due (one copy to be filed with the Authority)
December 19, 2005	Second round of discovery requests (one copy to be filed with the Authority)
January 6, 2006	Responses to second round of discovery requests due (one copy to be filed with the Authority)
February 8, 2006	Pre-filed testimony by intervenors due
February 22, 2006	Pre-filed rebuttal testimony by BTES due
March 6, 1, 2 or 3, 2006	Proposed Hearing dates suggested by the parties; dates subject to confirmation by the assigned panel of directors

In addition, the parties agreed that if any issues or disputes arise regarding discovery, they will contact the Hearing Officer for resolution. The parties also agreed that a proposed protective order will be filed before discovery responses are due. The Hearing Officer accepted the proposed procedural schedule. After a Hearing date is determined, an addendum to the procedural schedule will be issued.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Southeastern Competitive Carriers Association for Leave to Intervene* filed by the Southeastern Competitive Carriers Association on November 8, 2005 is granted. SECCA may participate in this proceeding as its interests require and receive copies of any notices, orders or other documents filed herein.

2. A procedural schedule is established as stated herein.
3. All filings are due no later than **2:00 p.m.** on the dates indicated in the procedural schedule.


Jean A. Stone, Counsel
as Hearing Officer